



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

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Governor

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Susan Whalen
Rincon Island Limited Partnership
6527 Dominion Road
Santa Maria, CA 93454

WATER QUALITY CERTIFICATION FOR PROPOSED RINCON ISLAND CAUSEWAY ABUTMENT EMERGENCY REPAIR PROJECT (Corps' Project No. 2008-259-AJS), RINCON ISLAND, RINCON BEACH, VENTURA COUNTY (File No. 08-033)

Dear Ms. Whalen:

Board staff has reviewed your request on behalf of Rincon Island Limited Partnership (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on March 27, 2008.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Dana Cole, Section 401 Program, at (213) 576-5733.

_____[Original Signed By]_____
Tracy J. Egoscue
Executive Officer

_____April 14, 2008_____
Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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ATTACHMENT A

Project Information File No. 08-033

1. Applicant: Susan Whalen
Rincon Island Limited Partnership
6527 Dominion Road
Santa Maria, CA 93454

Phone: (805) 357-2945 Fax: (805) 347-1072
2. Applicant's Agent: Ray de Wit
Padre Associates Inc.
1070 Concord Avenue, Suite 125
Concord, CA 94520

Phone: (925) 685-9441 x 21 Fax: (925) 685-9401
3. Project Name: Rincon Island Causeway Abutment Emergency Repair
4. Project Location: Rincon Island, Ventura County

<u>Longitude</u>	<u>Latitude</u>
119° 25'00"	34° 21'30"
5. Type of Project: Causeway abutment repair
6. Project Purpose: The proposed project will repair a collapsed roadway section.
7. Project Description: Rincon Island Limited Partnership, LLC operates Rincon Island and the associated causeway located offshore Punta Gorda, Ventura County, California (California State Lease PRC 1961.1). In December 2007, storm surf washed away rip rap boulders and smaller rock at the edge of the causeway which also resulted in a loss of portion of the asphalt roadway at the abutment of the Rincon Island Causeway. The damage precludes vehicular uses, including emergency vehicle access along the causeway. The Rincon Island 8-inch diameter product pipeline, which passes through the damaged area, has been shutdown and flushed. However the pipeline is in danger of failure should additional damage to the

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roadway or abutment occur. Until repairs to the damaged portion of the abutment can be completed, production on Rincon Island has been discontinued and no vehicles have access to the island.

Upon acquisition of all required permits and authorizations, the contractor for Rincon Island Limited Partnership, Associated Pacific Contractors, Inc (APC), will mobilize the equipment from their Morro Bay facilities and transit to the site. All operations will be land based; no vessels or in-water activities are proposed. Prior to repair work, APC will confirm the flushing of the eight-inch diameter product line, in addition to locating all pipelines and underground utilities.

A shore-based crane will install an estimated 70 cubic yards of 0.25 ton to 1-ton riprap around the west and southwest side of the abutment to replace riprap removed by the storm surf. Once the riprap wall is rebuilt, removal of the damaged asphalt roadway will follow to expose the inshore portion of the abutment. Six-inch rock and geo-textile fabric will then be used to fill voids in the riprap so the road can be rebuilt. APC will backfill the excavation with 78 CY of 0.75- to 1.5- inch diameter gravel and rock, which will be topped with 8-inches of suitable (Class II) road. To bring the roadway to grade with the surrounding roadway and causeway, the road base will be covered with three inches (2 tons) of asphalt concrete.

All recovered material will be either recycled or disposed of at a legal point of disposal.

Permanent impacts to waters from this project will be to 0.09 acres of intertidal zone, by the replacing of the rock riprap which was lost due to the storm surf.

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| 8. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP No. 03 (Permit No. 2008-259-AJS) |
| 9. Other Required
Regulatory Approvals: | California Coastal Commission Permit |

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10. California Environmental Quality Act Compliance: The proposed project is Categorically Exempt from CEQA pursuant to the CEQA Guidelines, Section (Section 15301 Replacement or Reconstruction, Class 1, Existing Facilities).
11. Receiving Water: Pitas Point (Rincon Beach Hydrologic Unit No. 401.00)
12. Designated Beneficial Uses: NAV, REC-1, REC-2, COMM, MAR, WILD, MIGR, SHELL
13. Impacted Waters of the United States: Ocean/Estuary/Bay: 0.09 permanent acres (20 linear feet)
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Spill Prevention:
- Prior to initiating activities around the eight-inch product pipeline APC will test the water to ensure that the pipe has been flushed and cleaned.
 - A complete equipment spill containment and cleanup kit will be on-site and personnel will be trained in response actions and the use of the equipment.
 - Absorbent material or drip pans will be placed under all equipment when they are not in use.

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- Any equipment that leaks will be shutdown until repairs are made.

Material Control & Disposal:

- APC will stockpile all recovered materials on the apron at the repair site.
- Excavated material will be segregated and stockpiled on-site prior to re-use or disposal.
- Recovered soil and sand, concrete, debris and roadway materials will be temporarily stored in separate piles at the site and covered with plastic sheeting until it is taken to a legal point of disposal.
- Recovered rip-rap will be reused.

17. Proposed
Compensatory
Mitigation:

None

18. Required
Compensatory
Mitigation:

Project activities will replace riprap which is devoid of vegetation. The area cross-section and capacity will not be modified by the project. Since the project impacts are temporary in nature, the Regional Board will not require any additional compensatory mitigation.

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

ATTACHMENT B

Conditions of Certification File No. 08-033

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Coastal Commission (CCC) Permit. **These documents shall be submitted prior to any discharge to waters of the State.**

1. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CCC's Permit, or the ACOE Section 404 Permit.
2. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
3. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 16, are incorporated as additional conditions herein.
4. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.

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5. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
6. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
7. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
8. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
9. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
10. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
11. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.

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12. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
13. The Applicant shall not conduct any maintenance activities within waters of the State during a rainfall event, or at any period when site conditions would lead to excessive erosion. If any maintenance activities are to be held within five (5) days of a predicted rainfall event, the Applicant shall stage materials necessary to prevent water degradation on site, and shall ensure that all stabilization procedures are completed prior to the rainfall event.
14. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
15. Sediment removal at each phase shall not go beyond the extent as defined in the application packet.
16. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
17. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
18. All project, construction or maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
19. The Applicant shall restore all areas of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed

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- areas to pre-project contours. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
20. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** (Annual Reports) by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until project completion has been achieved and documented. The Annual Reports shall describe in detail all of the project or construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. At a minimum the Annual Reports shall include the following documentation and answered appropriately whether or not mitigation has been performed:
- (a) Color photo documentation of the pre- and post-project site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
21. Prior to any subsequent maintenance activities within the subject area, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the area’s existing condition; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.
22. All applications, reports, or information submitted to the Regional Board shall be signed:

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**Conditions of Certification
File No. 08-033**

- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
23. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the _____ day of _____ at _____.

(Signature)
(Title)”

24. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **08-033**. Submittals shall be sent to the attention of the 401 Certification Unit.
25. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
26. The project shall comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
27. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the

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- Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
28. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
29. *Enforcement:*
- (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
 - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
30. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.